

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

FREDDY S. CAMPBELL,

Plaintiff

v.

Civil Action No. 2:05-cv-956

UNITED STATES OF AMERICA, and
CARTER COUNTY DETENTION CENTER,

Defendants

MEMORANDUM OPINION AND ORDER

Pending is the motion of the United States of America to dismiss for lack of subject matter jurisdiction, filed April 7, 2009.

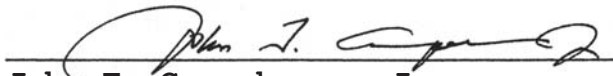
The United States seeks to be dismissed from this action on the ground that the plaintiff failed to properly exhaust administrative remedies before filing this action as required by the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2675. See McNeil v. United States, 508 U.S. 106, 113 (1993) (affirming the dismissal of a FTCA claim for want of subject matter jurisdiction where the plaintiff failed to exhaust administrative remedies before filing his claim despite having exhausted before substantial progress was made in the litigation; holding that the FTCA bars claimants from bringing suit in

federal court until they have exhausted their administrative remedies). The plaintiff responded on April 27, 2009, stating that he joins in the motion of the United States and requesting that the court dismiss this action against the United States based upon the plaintiff's failure to exhaust his administrative remedies.

Inasmuch as the parties agree that the United States should be dismissed, and it appearing proper to do so, it is ORDERED that the motion of the United States to dismiss be, and it hereby is, granted. It is further ORDERED that the United States be, and it hereby is, dismissed from this action.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record.

DATED: April 28, 2009



John T. Copenhaver, Jr.
United States District Judge